

REMARKS

Claims 1-34 are pending. Claims 5, 13, 14, 20, 25, 33 and 34 have been allowed. Reconsideration and allowance based on the following comments are respectfully requested.

The Office Action rejects claims 1-3, 7-9, 15-17, 21-23 and 27-29 under 35 U.S.C. §103(a) as being unpatentable over Mok (US 6,008,986), Twyford (US 6,386,413) and Lee (WO01/15940); claims 4, 6, 18, 24 and 26 under 35 U.S.C. §103(a) as being unpatentable in view of Mok, Twyford, Lee and Batio (US 5,949,643); claim 19 under 35 U.S.C. §103(a) as being unpatentable over Mok, Twyford, Lee, Batio and Suga (US 4,800,376) and claims 10-12 and 30-32 under 35 U.S.C. §103(a) as being unpatentable in view of Mok, Twyford, Lee and Ames (US 4,787,040). These rejections are respectfully traversed.

In the Office Action the Examiner provides a new reference Lee to teach features of the independent claims 1, 15 and 21 added in Applicants Response dated January 23, 2007 which the Examiner has stated it is not taught by Mok or Twyford.

Applicants respectfully submit, however, that Lee is not prior art. The earliest date which Lee could be considered as prior art is the International Publication date of March 8, 2001.

As stated in M.P.E.P. 1857.01:

An International Application maybe used as prior art as of it's International filing date, or an earlier US filing date for which benefit is properly claimed, under 35 U.S.C. §102(e) if the International application:

- A) was filed on or after November 29, 2000;
- B) designated the United States; and
- C) was published under PCT Article 21 (2) in the English Language.

... If any of the above conditions have not been satisfied, the publication of the International application and the US application publication of the National Stage after compliance with 35 U.S.C. §371 may only be used as prior art as of its publication date under 35 U.S.C. §102(a) or (b).

Since Lee has a filing date of November 8, 1999 which is prior to November 29, 2000, Lee does not satisfy all three (3) requirements noted above. Thus, Lee's prior art date is its publication date of March 8, 2001 and not its International filing date.

March 8, 2001 is after the priority date of April 27, 2000 for the present application. Thus, Applicants respectfully submit that Lee is not prior art and thus each of the above noted rejections are improper. Accordingly, withdrawal of the rejections are respectfully requested.

Conclusion

For at least the above reasons Applicants respectfully submit that claims 1-34 are distinguishable over the cited art. Favorable consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit

Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: August 16, 2007

Respectfully submitted,

By 

Chad J. Billings

Registration No.: 48,917

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant